

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6824

BILL NUMBER: HB 1122

NOTE PREPARED: Dec 15, 2004

BILL AMENDED:

SUBJECT: Kidnapping and Criminal Confinement.

FIRST AUTHOR: Rep. Smith J

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a person commits kidnapping if the person removes another person by fraud, force, or enticement from one place to another by using a vehicle. It makes criminal confinement a Class C felony, and enhances the offense to a Class B felony if the person confined or removed is less than 14 years of age.

Effective Date: July 1, 2005.

Explanation of State Expenditures: Under current law, knowingly or intentionally confining or removing a person while hijacking a vehicle is kidnapping, a Class A felony. The bill would eliminate the language “while hijacking a vehicle”, specifying that confining a person while carjacking, or removing a person by using a vehicle, is kidnapping. The penalty for both definitions of kidnapping would remain a Class A felony.

There are no data available to indicate if more offenders would be convicted of kidnapping given a change in the definition of the crime. A Class A felony is punishable by a prison term ranging from 20 to 50 years depending upon mitigating and aggravating circumstances. The average length of stay in Department of Correction (DOC) facilities for all Class A felony offenders is approximately 9.1 years.

Also, the bill increases penalties for criminal confinement from a Class D felony to a Class C. If the victim is less than 14 years of age, the offense would increase from a Class C felony to a Class B felony.

All things being equal, enhancing these offenses from a Class D felony to a Class C felony and from a Class C felony to a Class B felony would increase the number of beds needed, because offenders sentenced for these

crimes would have a later date of release than those previously convicted. Between FY 2000 and FY 2004, an average of 82 offenders were committed to Department of Correction facilities for Class D criminal confinement and 11 were committed for Class C criminal confinement. The average length of stay for a Class D felony is 10 months, for a Class C felony is approximately 2 years, and for a Class B felony is 3.7 years.

Based on the commitment data reported by the Department of Correction and an effective date of July 1, 2005, for the bill, an additional 27 beds would be needed by 2006 for those convicted of criminal confinement after the effective date and additional 19 beds would be needed by 2007 for those convicted of the enhanced criminal confinement crime.

The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Explanation of State Revenues: If additional court cases occur by changing the definition of kidnapping and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

No additional revenues would be expected for changes to criminal confinement since criminal fines and court fees are the same for a Class D, Class C, or Class B felony.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

No additional revenues would be expected for changes to criminal confinement since the court fees for a Class D, Class C, and Class B felony are \$120.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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